

HEALTH AND SAFETY CODE

Excerpt From DIVISION 104, PART 5 of the CALIFORNIA HEALTH AND SAFETY CODE

ARTICLE 7. The California Organic Foods Act of 1990

110810. This article shall be known, and may be cited as, the California Organic Foods Act of 1990.

110815. The following words and phrases, when used in this article, shall have the following meanings:

(a) "Administered" means ingested, injected, or otherwise topically or internally introduced to livestock, fowl, or fish.

(b) "Applied" means introduced, incorporated within, added to, or placed upon any seed, crop, plant, livestock, fowl, fish, soil, or growing medium, and shall also mean used in, on, or around any facility or area in which food is kept.

(c) "Area" means the physical space surrounding food where there is more than a negligible chance of a prohibited material being absorbed by, incorporated into, or adhered to the food, soil, or growing medium. The area may differ significantly depending on the circumstances. Except in the case of the production of food, area shall not include any physical space surrounding food if an intervening event, such as the use of a cleaning method for processing equipment, or the passage of time, has made the chance of a prohibited material being absorbed by, incorporated into, or adhered to the food, negligible.

(d) "Botanicals" means substances derived solely from plants or plant parts.

(e) "Endemic disease" means a disease in animal or fish that is either universal or common to a species within the geographic region.

(f) "Enforcement authority" means the governmental unit with primary enforcement jurisdiction, as provided in Section 110925.

(g) "Field" means a contiguous area of land for agricultural production that is managed with a consistent set of production methods.

(h) "Feed" means any substance used or intended for consumption by livestock, fowl, or fish to provide nourishment, including range and pasturage vegetation.

(i) "Growing medium" means a substance that provides nutrients for plants or fungi but which is separate from the land surface of the world.

(j) "Handled" means shipped, packed, repacked, sold for resale, warehoused, wholesaled, imported into the state, or stored by other than a grower, producer, processor, or retailer of that food.

(k) "Management unit" means the physical facilities and equipment associated with crop production that is not confined to a field, such as animal production, greenhouse production, or seed sprouting. Management units shall be described by the location and function of the physical facilities and equipment, and other aspects as determined by the enforcement authority. In the case of animal production, the management units shall also be described by the quantity and source of each group of animals that is managed together

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as a unit.

(l) "Processed" means cooking, baking, heating, drying, mixing, grinding, crushing, pressing, churning, separating, extracting juices or other materials, peeling, fermenting, eviscerating, preserving, dehydrating, freezing, or manufacturing that materially alters the flavor, keeping quality, or any other property, or the making of any substantial change of form. "Processed" does not include refrigeration at temperatures that are above the freezing point nor any other treatment that merely retards or accelerates the natural processes of ripening or decomposition.

(m) "Produced" means grown, raised, harvested, handled, or stored under the control of the grower or producer.

(n) "Producer," "handler," and "processor" means any person who has, respectively, produced, handled, or processed any food.

(o) "Production," "handling," and "processing" means the process by which any food is, respectively, produced, handled, and processed.

(p) "Prohibited materials" means any of the following:

(1) When used in connection with the production, handling, or processing of meat, fowl, or fish:

(A) Any drug, medication, hormone or growth regulator, whether or not synthetic, or any other synthetic substance, including, but not limited to, any substance administered to stimulate or regulate growth or tenderness, and any subtherapeutic dose of antibiotic. The use of a drug or medication for medical treatment of a specific and manifest malady diagnosed and prescribed by a licensed veterinarian, or under the general supervision of a licensed veterinarian, shall be permitted, but not within 90 days prior to slaughter or twice the withdrawal time specified by the federal Food and Drug Administration, whichever is longer. In addition, vaccines may be administered for prevention of an endemic disease or as required by law. Vitamin and mineral supplements also may be administered.

(B) Any feed administered to livestock, fowl, or fish that does not comply with the requirements of regulations adopted pursuant to Section 14904 of the Food and Agricultural Code.

(C) Any artificial rumen stimulants, such as plastic pellets.

(D) Any manure intentionally fed or refed.

(E) Any synthetically compounded substance applied postslaughter to the meat, fowl, or fish itself, or to its packaging, including preservatives.

(F) Any substance applied to any area where livestock, fowl, or fish or meat, fowl, or fish products are handled or kept at any time that does not consist entirely of microorganisms, microbiological products, or substances consisting of, or derived or extracted solely from, plant, animal, or mineral-bearing rock substances. Prohibited materials shall not include the application of botanicals, lime-sulfur, gypsum, soaps, and detergents. Prohibited materials shall include the application of petroleum solvents, diesel, and other petroleum fractions.

(2) When used in connection with the production, distribution, or processing of dairy products or eggs:

(A) Any drug, medication, hormone, or growth regulator, whether or not synthetic, and any other synthetic substance, including, but not limited to, any substance administered to stimulate or regulate growth, milk or egg production, and any subtherapeutic dose of antibiotic. The use of a drug or medication for medical treatment of

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a specific and manifest malady diagnosed and prescribed by a licensed veterinarian, or under the general supervision of a licensed veterinarian, shall be permitted, but not less than 30 days prior to taking of the milk or laying of eggs, or twice the withdrawal time specified by the federal Food and Drug Administration, whichever is longer. In addition, vaccines may be administered for prevention of an endemic disease or as required by law. Vitamin and mineral supplements may also be administered.

(B) Any feed administered to livestock within one year of the taking of the milk, or to fowl within six months of the laying of eggs, that does not comply with the requirements of regulations adopted pursuant to Section 14904 of the Food and Agricultural Code.

(C) Any artificial rumen stimulants, such as plastic pellets.

(D) Any manure intentionally fed or refeed.

(E) Any substance applied to any area where livestock, fowl, or fish, or meat, dairy, fowl, or fish products are handled or kept at any time that does not consist entirely of micro-organisms, microbiological products, or substances consisting of, or derived or extracted solely from, plant, animal, or mineral-bearing rock substances. Prohibited materials shall not include the application of botanicals, lime-sulfur, gypsum, soaps, and detergents. Prohibited materials shall include the application of petroleum solvents, diesel, and other petroleum fractions.

(3) When used in connection with the production, handling, or processing of raw agricultural commodities and any other food not specified in paragraphs (1) and (2), any synthetically compounded fertilizer, pesticide, growth regulator, or any other substance that does not consist entirely of micro-organisms, microbiological products, or substances consisting of, or derived or extracted solely from plant, animal, or mineral-bearing rock substances. Before harvest, prohibited materials shall not include the application of bordeaux mixes and trace elements for known deficiencies as determined by plant or animal tissue or by soil testing, soluble aquatic plant products, botanicals, lime-sulfur, gypsum, dormant oils, summer oils, fish emulsion, soaps, and detergents, except for petroleum solvents, diesel, and other petroleum fractions, used as weed or carrot oils. Prohibited materials shall not include the application of soaps and detergents.

(4) Water, including substances dissolved in water, shall not be a prohibited material, even if it contains incidental contamination from a prohibited material, if the prohibited material was not added by, or under the direction or control of, the producer, handler, processor or retailer.

(q) "Retailer" means a person engaged in the sale to consumers of food sold as organic and not engaged in the production, handling or processing of food sold as organic.

(r) "Sold as organic" means any use of the terms "organic," "organically grown," "naturally grown," "ecologically grown," or "biologically grown," or grammatical variations of those terms, whether orally or in writing, in connection with any food grown, handled, processed, sold, or offered for sale in this state, including, but not limited to, any use of these terms in labeling or advertising of any food and any ingredient in a multi-ingredient food, except as provided in Section 110880.

(s) "Substance" includes all components of a substance, including

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active and inert ingredients.

(t) "Synthetically compounded" means formulated or manufactured by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, excepting microbiological processes.

110820. Except as otherwise provided in this article, no food shall be sold as organic unless it consists entirely of any of the following:

(a) Raw agricultural commodities that meet the following requirements:

(1) The commodity has been produced and handled without any prohibited material or color additive having been applied, and without irradiation.

(2) In the case of any raw agricultural commodity produced from seed, the seed has not been treated with any prohibited material. If untreated seed is not available, seed treated with a fungicide may be used, except for seed used for sprouts and other raw agricultural commodities, as described in paragraph (6).

(3) In the case of perennial crops:

For fields or management units registered with the county agricultural commissioner pursuant to Section 46002 of the Food and Agricultural Code commencing January 1, 1996, no prohibited material shall have been applied to the crop, field, management unit, or area where the commodity is grown for 36 months prior to harvest.

(4) In the case of annual or two-year crops:

For fields or management units registered with the county agricultural commissioner pursuant to Section 46002 of the Food and Agricultural Code commencing January 1, 1996, no prohibited material shall have been applied to the crop, field, management unit, or area where the commodity is grown for 36 months prior to harvest.

(5) In the case of any raw agricultural commodity that is grown in any growing medium, such as fungi grown in compost or transplants grown in potting mix:

(A) The growing medium must have been manufactured or produced:

(i) Without any prohibited material having been included in the medium.

(ii) Without any prohibited material having been applied to the area where the medium is manufactured or produced during seeding or inoculation of the medium.

(iii) Using methods that will minimize the migration or accumulation of any pesticide chemical residue in food grown in the medium.

(B) No prohibited material shall have been applied to the area where the commodity is grown during seeding or inoculation. If a prohibited material is applied in the area prior to seeding or inoculation, a residue test shall be performed on the commodity grown from that seeding or inoculation.

(6) In the case of sprouts and other raw agricultural commodities as described in subparagraph (B):

(A) The seed shall have been organically produced, handled, and processed in accordance with this article. No prohibited material shall have been applied to the seed or to the area in which the commodity is grown after introduction of the seed.

(B) This paragraph and the requirements of paragraphs (4) and (5), where applicable, shall apply to raw agricultural commodities that

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are grown directly from seed through either of the following methods:

- (i) Without soil or growing medium other than water.
- (ii) On a soil or growing medium and seeded at a rate greater than one ounce per square foot (2,722 pounds per acre).

(b) Processed food manufactured only from raw agricultural commodities as described in subdivision (a), except as follows:

- (1) Water, air, and salt may be added to the processed food.
- (2) Ingredients other than raw agricultural commodities as described in subdivision (a) may be added to the processed food if these ingredients are included in the California administrative list of materials approved for organic food processing or the national list adopted by the United States Secretary of Agriculture pursuant to Section 6517 of the federal Organic Foods Production Act (7 U.S.C. Sec. 6501 et seq.) and do not represent more than 5 percent of the weight of the total finished product, excluding salt and water.

(c) Processed food manufactured only from a combination of raw agricultural commodities as described in subdivision (a) and processed food as described in subdivision (b).

(d) (1) Meat, fowl, fish, dairy products, or eggs that are produced, distributed, and processed without any prohibited material having been applied or administered, except as provided in paragraph (2) with respect to dairy products.

(2) For the first 10 months of the year prior to the taking of the milk, 80 percent of any feed administered to dairy livestock shall be comprised of materials in compliance with the regulations adopted pursuant to Section 14904 of the Food and Agricultural Code. For the final two-month period prior to the taking of the milk, 100 percent of any feed administered to the dairy livestock shall be in compliance with the regulations adopted pursuant to Section 14904 of the Food and Agricultural Code.

110825. No food that contains any prohibited material residue as a result of spray drift or any other contamination beyond the control of the producer, handler, processor, or retailer, may be sold as organic unless the amount of residue does not exceed 5 percent of the federal Environmental Protection Agency tolerance level.

110830. (a) No food grown, handled, processed, sold, advertised, represented, or offered for sale in this state, shall be sold as organic unless it also is prominently labeled, invoiced, and represented as follows, or with substantially similar language:

- (1) For raw agricultural commodities:
ORGANICALLY GROWN IN ACCORDANCE WITH THE
CALIFORNIA ORGANIC FOODS ACT OF 1990.
- (2) For processed food:
ORGANICALLY GROWN AND PROCESSED IN ACCORDANCE
WITH THE CALIFORNIA ORGANIC FOODS ACT OF 1990.
- (3) For unprocessed meat, fowl, fish, dairy products, or eggs:
ORGANICALLY PRODUCED IN ACCORDANCE WITH THE
CALIFORNIA ORGANIC FOODS ACT OF 1990.

(b) For unpackaged food sold as organic to consumers, physical attachment to the food of the applicable language set forth in subdivision (a) shall not be required if the language appears

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prominently on or near the bin or container holding the food.

(c) For food certified by a registered certification organization in accordance with Sections 110850 to 110870, inclusive, or Section 46009 of the Food and Agricultural Code, the term "CERTIFIED" may be used in labeling food sold as organic by the producer and by any handler if the name of the registered certification organization precedes or follows that term in the same size type, and if subdivisions (a) and (b) have been met.

(d) When unprocessed food that has been certified by two or more registered certification organizations, is commingled by a handler or retailer, but is not processed, the food shall thereafter be labeled as set forth in paragraph (1) or (3) of subdivision (a), and subdivisions (b) and (c), with the name of each certification organization that has certified any of the food.

(e) Except as provided in subdivision (f), when less than all of the ingredients in a multi-ingredient food are produced, handled, and, if applicable, processed in accordance with Section 110820, the food shall not be sold as organic. However, those ingredients produced, handled, and processed in accordance with Section 110820 may be described using the terms contained in subdivision (r) of Section 110815 on the principal display panel of the food if the terms are clearly used only to modify those ingredients and only if 100 percent of those ingredients are produced in accordance with Section 110820. The use of the terms shall be limited to no greater than three-quarters of the type size of the statement of identity.

Additionally or alternatively, those ingredients produced, handled, and processed in accordance with Section 110820 may be described using the terms contained in subdivision (r) of Section 110815 on the ingredient list on the packaging, if all other provisions of this article are met.

(f) No food may be advertised or labeled as "organic when available" or similar terminology that leaves in doubt whether the food is being sold as organic.

(g) The provisions of this article relating to the labeling of meat and meat products and poultry and poultry products shall not be interpreted to authorize any labeling of those products, that is subject to the jurisdiction of federal labeling laws, in a manner inconsistent with those federal labeling laws.

(h) Notwithstanding subdivision (a), until January 1, 1992, any person may utilize existing supplies of labels that conform to the requirements of former Section 26569.13.

110835. The director may adopt regulations or administrative lists of specific substances that are in compliance or not in compliance with subdivision (p) of Section 110815 for use in the processing of foods under the enforcement jurisdiction of the department.

110840. (a) All persons who produce raw agricultural commodities that are sold as organic shall keep accurate and specific records of the following:

(1) For each field or management unit, all substances applied to the crop, soil, growing medium, growing area, irrigation or postharvest wash or rinse water, or seed, including all substances applied during the time periods specified in paragraphs (3) to (6), inclusive, of subdivision (a) of Section 110820, the quantity of each substance applied, and the date of each application. All substances shall be identified by brand name, if any, and by source.

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(2) The quantity harvested from each field or management unit, the size of the field or management unit, the field number, and the date of harvest.

(3) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all handlers, processors, or retailers to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(b) All persons who produce meat, fowl, fish, dairy products, or eggs sold as organic shall keep accurate and specific records of the following:

(1) Unless the livestock, fowl, or fish was raised or hatched by the producer, the name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all suppliers of livestock, fowl, or fish and the date of the transaction.

(2) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all suppliers of feed, the quantity of feed purchased, and the date of the transaction.

(3) All substances administered and fed to the animal, including all feed, medication and drugs, and all substances applied in any area in which the animal, milk, or eggs are kept, including the quantity administered or applied, and the date of each application. All substances shall be identified by brand name, if any, and by source.

(4) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all handlers, processors, or retailers to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(c) All persons who handle food sold as organic shall keep accurate and specific records of the following:

(1) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all suppliers of the food, the quantity of food purchased or otherwise transferred, and the date of the transaction.

(2) Invoices for each shipment from the supplier that state that the food may be sold as organic.

(3) If the food is labeled or represented to be certified, invoices from the supplier or separate written documentation from a certification organization that states that the food is certified under this article.

(4) All pesticide chemicals applied to the food while in the control of the handler, including the quantity applied, and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(5) All substances routinely applied in or around any area or container in which the food is kept. All substances shall be identified by brand name, if any, and by source. This record may be provided in the form of a single list of substances used.

(6) The name and address and, if applicable, the registration

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numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all persons to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(d) All persons who process food sold as organic shall keep accurate and specific records of the following:

(1) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all suppliers of the food, the quantity of food purchased or otherwise transferred, and the date of the transaction.

(2) Invoices for each shipment from the supplier that state that the food may be sold as organic.

(3) If the food is labeled or represented to be certified, invoices from the supplier or separate written documentation from a certification organization that states that the food is certified under this article.

(4) All substances applied to the food or used in its processing, all substances applied to the food while in the control of the processor, and all substances applied in or around any area or container in which the food is kept, including the quantity of substances applied and the date of each application. All substances shall be identified by brand name, if any, and by source.

(5) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all handlers, processors, or retailers to whom the food is sold or otherwise transferred, the quantity of food sold or otherwise transferred, and the date of the transaction.

(e) All persons who sell, at retail, food sold as organic shall keep accurate and specific records of the following:

(1) The name and address and, if applicable, the registration numbers issued pursuant to Section 110875 of this code or Section 46002 of the Food and Agricultural Code of all suppliers of the food, the quantity of food purchased or otherwise transferred, and the date of the transaction.

(2) Invoices for each shipment from the supplier that state that the food may be sold as organic.

(3) If the food is labeled or represented to be certified, invoices from the supplier or separate written documentation from a certification organization that states that the food is certified under this article.

(4) All pesticide chemicals applied to the food while in the control of retailer, including the quantity applied, and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(5) All substances routinely applied in or around any area or container in which the food is kept. All substances shall be identified by brand name, if any, and by source. This record may be provided in the form of a single list of substances used. One list may be kept at the retailer's headquarters office if all individual stores operated by that retailer utilize only the substances on the list.

Paragraphs (1) and (2) shall not apply to a person who both produces and sells, at retail, the same food. The records required

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to be kept pursuant to paragraphs (1) to (4), inclusive, of this subdivision may be kept at the retailer's warehouse or headquarters office.

(f) All records required to be kept under this section shall be maintained by producers for not less than three years and by handlers and processors for not less than two years from the date that the food is sold, and shall be maintained by retailers for not less than one year from the date that the food is received by the retailer. These records shall be made available for inspection at any time by the director or the Director of Food and Agriculture and by each certification organization that certifies the food, if any, for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code.

110845. (a) Notwithstanding any other provision of law, any producer, handler, processor, or retailer of food sold as organic shall immediately make available for inspection by, and shall upon request, within 72 hours of the request, provide a copy to, the director, the Attorney General, any prosecuting attorney, any governmental agency responsible for enforcing laws related to the production or handling of food sold as organic, or the Secretary of Food and Agriculture of any record required to be kept under this section for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code. Records acquired pursuant to this subdivision shall not be public records as that term is defined in Section 6252 of the Government Code and shall not be subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

(b) Upon written request of any person that establishes cause for the request, the director and the Secretary of Food and Agriculture shall obtain and provide to the requesting party within 10 working days of the request a copy of any of the following records required to be kept under this article that pertain to a specific product sold or offered for sale, and that identify substances applied, administered, or added to that product, except that financial information about an operation or transaction, information regarding the quantity of a substance administered or applied, the date of each administration or application, information regarding the identity of suppliers or customers, and the quantity or price of supplies purchased or products sold shall be removed before disclosure and shall not be released to any person other than persons and agencies authorized to acquire records under subdivision (a):

(1) Records of a producer, as described in paragraph (1) of subdivision (a) and in paragraph (3) of subdivision (b) of Section 110840.

(2) Records of a handler, as described in paragraphs (4) and (5) of subdivision (c) of Section 110840, records of previous handlers, if any, and producers as described in paragraph (1) of subdivision (a) of, paragraph (3) of subdivision (b) of, and paragraphs (4) and (5) of subdivision (c) of, Section 110840, without identifying the previous handlers or producers, and, if applicable, records obtained as required in subdivision (d).

(3) Records of a processor, as described in paragraph (4) of subdivision (d) of Section 110840, except for processing aids that are not residual in the product and spices and seasonings exempt from

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labeling requirements in Parts 145 and 146 of Title 21 of the Code of Federal Regulation, records of previous processors and handlers, if any, and producers as described in paragraph (1) of subdivision (a) of, paragraph (3) of subdivision (b) of, paragraphs (4) and (5) of subdivision (c) of, and paragraph (4) of subdivision (d) of, Section 110840, without identifying the previous processors, handlers, or producers, and, if applicable, records obtained as required in subdivision (d).

(4) Records of a retailer, as described in paragraphs (4) and (5) of subdivision (e) of Section 110840, records of previous processors and handlers, if any, and producers as described in paragraph (1) of subdivision (a) of, paragraph (3) of subdivision (b) of, paragraphs (4) and (5) of subdivision (c), and paragraph (4) of subdivision (d) of, Section 110840, without identifying the previous processors, handlers, or producers, and, if applicable, records obtained as required in subdivision (d).

This subdivision shall be the exclusive means of public access to records required to be kept by producers, processors, handlers, and retailers under this article.

A person required to provide records pursuant to a request under this subdivision, may petition the director or the Secretary of Food and Agriculture to deny the request based on a finding that the request is of a frivolous or harassing nature. The secretary or director may, upon the issuance of such a finding, waive the information production requirements of this subdivision for the specific request for information that was the subject of the petition.

(c) Information specified in subdivision (b) that is required to be released upon request shall not be considered a "trade secret" under Section 110165, Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code).

(d) The director or the Secretary of Food and Agriculture may charge the person requesting records a reasonable fee to reimburse him or her self or the source of the records for the cost of reproducing the records requested.

(e) Any person who first imports into this state, for resale, food sold as organic shall obtain and provide to the enforcement authority, upon request, proof that the products being sold have been certified by an accredited certifying organization or have otherwise been produced in compliance with this article.

(f) The director shall not be required to obtain records not in his or her possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the director shall delete any information regarding the identity of suppliers or customers and the quantity or price of supplies purchased or products sold.

110850. (a) Following initial United States Department of Agriculture accreditation of certifying agents as provided in Section 6514 of Title 7 of the United States Code and upon implementation of the federal organic certification requirement pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C.A. Sec. 6501 et seq., Sec. 2101, P.L. 101-624), all products sold as organic in California shall be certified by a federally accredited certifying agent, if they are required to be certified under the federal act.

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In addition food shall be sold as organic only in accordance with this section, subdivisions (c) and (d) of Section 110830, Sections 110855 to 110870, inclusive, and Section 46009 of the Food and Agricultural Code. The Secretary of Food and Agriculture, director, and the county agricultural commissioners shall carry out this subdivision to the extent that adequate funds are made available for that purpose.

(b) Food sold as organic may be certified only by a certification organization registered pursuant to subdivisions (c) and (d), by the director pursuant to subdivision (f), by a certification organization registered pursuant to Section 46009 of the Food and Agricultural Code, or by the Secretary of Food and Agriculture or a county agricultural commissioner pursuant to Section 46009 of the Food and Agricultural Code or a federally accredited certification organization.

(c) In order to be registered, a certification organization shall meet all of the following minimum qualifications:

(1) Be the certification organization for at least five legally separate and distinct, financially unrelated, and independently controlled persons involved in the production or processing of food sold as organic.

(2) Be a legally separate and distinct entity from any person whose food is certified by the organization. A certification organization shall be considered legally separate and distinct notwithstanding the fact that persons or representatives of persons whose food is certified serve as directors, officers, or in other capacities for the certification organization, so long as those persons or representatives of those persons do not exercise decisionmaking authority over certification of that particular food.

(3) Have no financial interest in the sale of the food, except that fees charged by the certification organization to cover the reasonable costs of operating the certification organization do not constitute a financial interest for purposes of this section.

(d) Effective January 1, 1992, a certification organization that certifies processed food sold as organic, except for processed meat, fowl, or dairy products, shall register with the director and shall thereafter annually renew the registration unless no longer engaged in the activities requiring the registration. Registration shall be on a form provided by the director, shall include the filing of a certification plan as specified in Section 110865 and payment of the fee specified in subdivision (f). The director shall make forms available for this purpose on or before December 1, 1993. The registration form shall include a written statement affirming compliance with all requirements for certification organizations specified in Section 110850 to 110870, inclusive, and confirmation that each component of the organization's certification plan has been filed as specified in Section 110865. The director shall reject a registration submission that is incomplete or not in compliance with this article.

(e) Commencing July 31, 1991, the director may, upon the request of a sufficient number of persons to fund the program's cost, establish and maintain a certification program for processors of food sold as organic and shall establish and collect a fee from all processors of food certified under that program to cover all of the department's costs of administering the program. The certification

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program shall be subject to all provisions regarding certification organizations contained in this article, except that the requirements of subdivisions (c) and (d) shall not apply, and the program shall meet all of the requirements for federal certification programs, including federal accreditation.

(f) The registration fee shall be five hundred dollars (\$500), unless the certification organization is also registered as a certifier of producers by the Secretary of Food and Agriculture under Section 46009 of the Food and Agricultural Code, in that case the registration fee shall be one hundred dollars (\$100).

(g) The director may audit the organization's certification procedures and records at any time. Records of certification organizations not otherwise required to be released upon request or made publicly available shall not be released by the director except to other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or any government agency responsible for enforcing laws related to the activities of the person subject to this part.

110855. Prior to initial certification of a producer, a registered certification organization shall conduct at least one initial physical inspection of the premises where the food to be certified is produced. This inspection shall include the recordkeeping system necessary for compliance with Section 110840 and the area or facility at which the food is produced.

110860. (a) A registered certification organization shall no less often than, at the end of each calendar quarter, prepare a list by name of all persons whose production or processing of food is certified or pending certification by the certification organization.

This list shall be filed with the department or the Department of Food and Agriculture, as applicable, by the certification organization and made publicly available within 30 days after the end of each quarter.

(b) A registered certification organization or a federally accredited certification organization shall, at least annually, physically inspect the premises where the food to be certified is produced and processed. The inspection shall include an examination of recordkeeping.

110865. A registered certification organization shall adopt and adhere to a certification plan filed annually and made publicly available. Except in the case of a certification program established pursuant to subdivision (e) of Section 110850, a certification plan shall be filed as part of the registration required pursuant to subdivision (d) of Section 110850. A certification plan shall at minimum include a detailed description of all of the following elements of the certification organization's program:

(a) Minimum information required from producers or processors regarding growing or processing practices and methods for verifying that information.

(b) Qualifications of and training requirements for all inspectors.

(c) Procedures for inspection, including frequency and items covered.

(d) Procedures for soil and tissue sampling and analysis.

(e) Criteria for certification.

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(f) Process for certification decisionmaking, including identification of persons with decisionmaking authority.

110870. (a) Only food that has been produced, handled, and processed in accordance with this article may be certified by a registered certification organization.

(b) Processed or multiingredient food sold as organic may only be certified if all the organic ingredients are certified.

110875. (a) Every person engaged in this state in the processing or handling of processed food sold as organic, including the handling or processing of fish or seafood sold as organic, except for processors and handlers of processed meat, fowl, or dairy products, shall register with the director, and shall thereafter annually renew the registration unless no longer so engaged. Processors and handlers of processed food that are registered with the department pursuant to Article 2 (commencing with Section 110460) shall register under this section in conjunction with the annual renewal of their registration pursuant to that article. All others required to register under this subdivision shall register within 30 days of forms being made available for this purpose. Any processor or handler of processed foods required to register under this subdivision that does not pay the registration fee required by subdivision (c) within 30 days of the date on which the fee is due and payable shall pay a penalty of 1 percent per month on the unpaid balance.

(b) Registration shall be on a form provided by the director and shall be valid for a period of one calendar year from the date of validation of the completed registration form. The director shall make forms available for this purpose on or before January 1, 1994. The information provided on the registration form shall include all of the following:

(1) The nature of the registrant's business, including the types and quantities of each type of product that are sold as organic.

(2) The total current annual gross sales in dollars of products sold as organic.

(3) The names of all certification organizations and governmental entities, if any, providing certification to the registrant pursuant to this article.

(c) A registration form shall be accompanied by payment of a nonrefundable registration fee of one hundred dollars (\$100), payable to the department.

(d) To the extent feasible, the director shall coordinate the registration and fee collection procedures of this section with similar licensing or registration procedures applicable to registrants.

(e) The director shall reject a registration submission that is incomplete or not in compliance with this article.

(f) The director shall provide a validated copy of the completed registration form to the registrant.

(g) Registration forms shall be made available to the public for inspection and copying at the main office of the department. Copies of registration forms shall also be made available by mail, upon written request and payment of a reasonable fee, as determined by the director. Registration information regarding quantity of products sold and gross sales volume in dollars shall be deleted prior to public inspection and copying and shall not be released to any person

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except other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or any government agency responsible for enforcing laws related to the activities of the person subject to this part.

(h) The requirements of this section shall not apply to retailers of food sold as organic.

110880. This article shall apply to all food sold as organic within the state, wherever produced, handled, or processed, and to all food produced, handled, or processed in the state, wherever sold as organic; except that in lieu of registration under this article, the director may recognize a certification program operating outside the state that certifies processed food sold as organic, except for processed meat, fowl, or dairy products, as functionally equivalent to a certification organization registered under Section 110850, so long as that program meets minimum standards substantially similar to those contained in subdivision (c) of Section 110850 and Sections 110855 to 110870, inclusive. The director may administratively establish a procedure whereby certification organizations operating outside the state may apply for and receive recognition.

110885. This article shall not apply to the term "natural" when used in the labeling or advertising of a food.

110890. (a) It is unlawful for any person to sell, offer for sale, advertise, or label any food in violation of this article.

(b) Notwithstanding subdivision (a), a person engaged in business as a distributor or retailer of food who in good faith sells, offers for sale, labels, or advertises any food in reliance on the representations of a producer, processor, or other distributor that the food may be sold as organic, shall not be found to violate this article unless the distributor either: (1) knew or should have known that the food could not be sold as organic; (2) was engaged in producing or processing the food; or (3) prescribed or specified the manner in which the food was produced or processed.

110895. (a) It is unlawful for any person to certify food in violation of this article.

(b) It is unlawful for any person to certify food as organic unless duly registered as a certification organization pursuant to Section 110850.

(c) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration for a certification organization pursuant to Section 110850.

110900. (a) It is unlawful for any person to produce, handle, or process food sold as organic unless duly registered pursuant to Section 110875.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration pursuant to Section 110875.

110905. It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records pursuant to Sections 110840 and 110845.

110910. It is unlawful for any person to advertise, label, or otherwise represent that any fertilizer or pesticide chemical may be used in connection with the production, processing, or distribution of food sold as organic if that fertilizer or pesticide chemical

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contains a prohibited material.

110915. (a) In lieu of prosecution, the director may levy a civil penalty against any person who violates this article or any regulation adopted pursuant to this article in an amount not more than five thousand dollars (\$5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon effectuation of the purposes and provisions of this article, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the director finds that a violation was not intentional, the director may levy a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation.

(c) For a first offense, in lieu of a civil penalty as prescribed in subdivisions (a) and (b), the director may issue a notice of violation, if he or she finds that the violation is minor.

(d) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the director, upon request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to review the director's evidence of the violation and the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(e) If a hearing is held, review of the decision of the director may be sought by any person within 30 days of the date of the final order of the director pursuant to Section 1094.5 of the Code of Civil Procedure.

(f) A civil penalty levied by the director pursuant to this section may be recovered in a civil action brought in the name of the state.

110920. No fee established and collected pursuant to this article shall exceed the department's costs of regulating and enforcing the provisions of this article related to the function for which the fee is established.

110925. Any fees and civil penalties collected pursuant to this article shall be deposited in the General Fund and, upon appropriation by the Legislature, shall be expended to fulfill the responsibilities of the director as specified in this article.

110930. The director shall, to the extent funds are available, enforce this article applicable to all processors and handlers of processed food sold as organic, including handlers and processors of fish and seafood sold as organic, except for processors and handlers of processed meat, fowl, and dairy products.

110935. The director shall maintain in a central location, and make publicly available for inspection and copying, upon request, a list of all penalties levied within the past five years, including the amount of each penalty, the party against whom the penalty was levied, and the nature of the violation. The list also shall be available by mail, upon written request and payment of a reasonable fee, as determined by the director.

110940. (a) Any person may file a complaint with the director concerning suspected noncompliance with this article by a person over whom the director has responsibility as provided in this article.

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(b) The director shall, to the extent funds are available, establish a procedure for handling complaints, including, provision of a written complaint form, and procedures for commencing an investigation within three working days of receiving a written complaint regarding fresh food, and within seven working days for other food, and completing an investigation and reporting findings and enforcement action taken, if any, to the complainant within 90 days thereafter.

(c) The director may establish minimum information requirements to determine the verifiability of a complaint and may provide for rejection of a complaint that does not meet the requirements. The director shall provide written notice of the reasons for rejection to the person filing the complaint.

(d) The responsibilities of the director under this section shall be carried out to the extent funds are available.

110945. This article shall apply notwithstanding any other provision of law that is inconsistent with this article. Nothing in this article is intended to repeal any other provision of law not inconsistent with this article.

110950. The director may adopt any regulations as are reasonably necessary to assist in the implementation of, or to make more specific, the provisions of, this article.

110955. Any reference in law to former Section 26569.11, whether existing or hereinafter enacted, shall be interpreted to refer to this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code as the successor section.

110956. (a) All organic food regulations and any amendments to those regulations adopted pursuant to the Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), that are in effect on the date this bill is enacted or that are adopted after that date shall be the organic food regulations of this state.

(b) The department may, by regulation, prescribe conditions under which organic foods may be sold in this state whether or not these conditions are in accordance with regulations adopted pursuant to the Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) if the director submits these regulations for approval to the federal Secretary of Agriculture as required by Section 6507 of Title 7 of the United States Code and the Secretary approves the regulations pursuant to the federal Organic Foods Production Act.

110957. It shall be unlawful for a person to represent in advertising or labeling that the person or the foods of the person are registered pursuant to this article.

110958. Annually, the director shall compile and publish and submit to the Organic Food Advisory Board a summary of information collected under Section 110875, including, but not limited to, the following:

(a) The total number of registrations received under this section.

(b) The total number and quantity of each type of product sold as organic by all registrants combined.

(c) The total annual organic gross sales volume of all registrants combined, and the median gross annual organic sales of all registrants.

(d) The names of all registrants.

(e) The number of registrants in each of the following ranges of

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annual gross sales volume:

- (1) \$0-\$5,000
- (2) \$5,001-\$10,000
- (3) \$10,001-\$25,000
- (4) \$25,001-\$50,000
- (5) \$50,001-\$75,000
- (6) \$75,001-\$100,000
- (7) \$100,001-\$125,000
- (8) \$125,001-\$150,000
- (9) \$150,001-\$175,000
- (10) \$175,001-\$200,000
- (11) \$200,001-\$250,000
- (12) \$250,001-\$300,000
- (13) \$300,001-\$400,000
- (14) \$400,001-\$500,000
- (15) \$500,001-\$750,000
- (16) \$750,001-\$1,000,000
- (17) \$1,000,001-\$1,500,000
- (18) \$1,500,001-\$2,000,000
- (19) \$2,000,001-\$2,500,000
- (20) \$2,500,001-\$5,000,000
- (21) \$5,000,001-\$7,500,000
- (22) \$7,500,001-\$10,000,000
- (23) \$10,000,001-\$15,000,000
- (24) \$15,000,001-\$20,000,000
- (25) \$20,000,001 and above.

(f) The report published pursuant to this section shall present the required information in an aggregate form that preserves the confidentiality of the proprietary information of individual registrants.